

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

IN RE PAYMENT CARD INTERCHANGE  
FEE and MERCHANT-DISCOUNT  
ANTITRUST LITIGATION

Case No. 1:05-md-1720 (MKB) (JO)

This Document Applies to:

*Barry's Cut Rate Stores, Inc., et al. v. Visa, Inc., et al.*, No. 05-md-01720 (E.D.N.Y.) (MKB) (JO).

*Target Corp., et al. v. Visa Inc., et al.*, No. 13-cv-05745 (E.D.N.Y.) (MKB) (JO).

*7-Eleven, Inc., et al. v. Visa Inc., et al.*, No. 13-cv-05746 (E.D.N.Y.) (MKB) (JO).

*The Home Depot, Inc., et al. v. Visa Inc., et al.*, No. 16-cv-05507 (E.D.N.Y.) (MKB) (JO).

*Visa U.S.A. Inc., et al. v. Nat'l Ass'n of Convenience Stores, et al.*, No. 13-cv-03074 (E.D.N.Y.) (MKB) (JO).

*Visa U.S.A. Inc., et al. v. The Home Depot, Inc., et al.*, No. 14-cv-00261 (E.D.N.Y.) (MKB) (JO).

*Visa U.S.A. Inc., et al. v. Sears Holdings Corp.*, No. 14-cv-06450 (E.D.N.Y.) (MKB) (JO).

**ORAL ARGUMENT REQUESTED**

**DEFENDANTS' NOTICE OF MOTION FOR SUMMARY JUDGMENT**

PLEASE TAKE NOTICE that, upon the accompanying Declaration of Rosemary Szanyi, and exhibits attached thereto; Defendants' Statement of Material Facts as to Which There Is No Genuine Issue to be Tried; Defendants' Memorandum of Law in Support of Their Motion For Summary Judgment under *Ohio v. American Express*; Defendants' Memorandum of Law in Support of Their Motion For Summary Judgment on Plaintiffs' Post-IPO Conspiracy Claims;

Defendants' Memorandum of Law in Support of Their Motion for Summary Judgment on Plaintiffs' Damages Claims under Federal Antitrust Laws Based on *Illinois Brick Co. v. Illinois*; Memorandum of Law in Support of Defendants' Motion to Exclude Plaintiffs' Experts' Opinions on EMV Chargebacks and for Partial Summary Judgment; Visa and Bank Defendants' Memorandum in Support of the Motion for Summary Judgment on Plaintiffs' Monopolization Claims; and Mastercard and Bank Defendants' Memorandum in Support of the Motion for Summary Judgment Based on Mastercard's Lack of Market Power, the undersigned, as set forth in the signature pages of the foregoing memoranda, will move this Court on a date and time to be designated by the Court, in the United States Courthouse, 225 Cadman Plaza East, Brooklyn, NY 11201-1818 for an Order pursuant to Fed. R. Civ. P. 56 for summary judgment in their favor on all claims made by or against them, dismissing all Plaintiffs' complaints against them in their entirety, and for such other further relief as the court deems just and proper.

PLEASE TAKE FURTHER NOTICE that Defendants request oral argument of this motion.

Dated: June 1, 2020

Respectfully submitted,

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<sup>1</sup> Arnold & Porter Kaye Scholer LLP is counsel to the Visa defendants as to all plaintiffs in the 7-*Eleven* action except for Barnes & Noble, Inc. and Barnes & Noble College Booksellers LLC and as to all plaintiffs in the *Target* action except for J.C. Penney Corporation and The TJX Companies, Inc. and related entities.

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<sup>2</sup> Morrison & Foerster LLP is counsel for the Bank of America defendants as to all opt-out plaintiffs except for Academy Ltd., Beall's, Inc., Costco Wholesale Corp., Dillard's, Inc., Gap, Inc., GNC Holdings, Inc., and Michaels Stores, Inc., as to which opt-out plaintiffs Zeichner Ellman & Krause LLP is counsel for the Bank of America defendants.

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**CERTIFICATE OF SERVICE**

I hereby certify that on June 1, 2020, I caused a true and correct copy of the foregoing to be served on all counsel in the above-referenced action via FTP, in accordance with the parties' prior agreement.

Dated: June 1, 2020

*/s/ Gary R. Carney*

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Gary R. Carney